

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STANLEY G. SIMONSON and REBECCA I.
SIMONSON, husband and wife,

Plaintiffs,

V.

M/V LUCKY BUCK, Official Number 567411, her engines, machinery, equipment, tackle, appurtenances, etc., in rem; M/V SPEEDWELL, Official Number 594754, her engines, machinery, equipment, tackle, appurtenances, etc., in rem; WILLIAM R. ORR and JANE DOE ORR, husband and wife and their marital community comprised thereof; JOHN KELLEY and JANE DOE KELLEY, husband and wife and their marital community comprised thereof; GREGORY THOMAS and JANE DOE THOMAS, husband and wife and their marital community comprised thereof; TKO FISHERIES LIMITED, a Washington corporation,

Defendants.

IN ADMIRALTY

No. 17-cv-01724

**[PROPOSED] ORDER APPOINTING
SUBSTITUTE CUSTODIAN**

THIS MATTER having come before the Court on Plaintiffs' Verified Motion for Appointment of Substitute Custodian, the Court having reviewed the record and having considered the evidence, in particular the plaintiffs' Verified Complaint; the Motion; the Declaration of Proposed Substitute Custodian Jeffrey T. Osborn; the Declaration of Andrew

1 Murphy; and any response or reply thereto; and the pleadings and records on file herein; and
2 the Court being fully advised; now, therefore, the Court hereby FINDS the following:

3 1. That the defendant vessels M/V LUCKY BUCK, Official Number 567411, and
4 the M/V SPEEDWELL, Official Number 594754, are currently within the Western District of
5 Washington, and this Court has jurisdiction over the *res* pursuant to 28 U.S.C. § 1333(1) and
6 Rules C and E of the Supplemental Rules of Admiralty and Maritime Claims to the Federal
7 Rules of Civil Procedure.

8 2. Plaintiffs Stanley G. Simonson and Rebecca I. Simonson have filed a Verified
9 Complaint *in rem* seeking the arrest of the vessels M/V LUCKY BUCK and the
10 M/V SPEEDWELL and their respective engines, machinery, tools, fishing nets and other
11 fishing gear, fish processing equipment, boats, anchors, chains, tackle, fittings, navigation
12 equipment, and all other equipment and appurtenances appertaining or belonging to such
13 vessels, whether now owned or hereafter acquired, and whether on board or not; all present
14 and future accessions to such vessels, equipment and appurtenances, and all other additions,
15 improvements, and replacements hereafter made in or to such vessel, equipment and
16 appurtenances to the vessels pursuant to Rules C and E of the Supplemental Rules of
17 Admiralty and Maritime Claims to the Federal Rules of Civil Procedure. The Simonsons seek
18 to foreclose the Preferred Ship Mortgages dated April 1, 2011 filed at the National Vessel
19 Documentation Center in accord with the requirements of 46 U.S.C. § 31321 and 46 U.S.C.
20 § 31322. The M/V LUCKY BUCK and the M/V SPEEDWELL will be arrested by the United
21 States Marshal pursuant to an Order that has been presented contemporaneously to this Court.

22 3. The M/V LUCKY BUCK and the M/V SPEEDWELL are presently located
23 within this District at Lake Union Drydock. Jeff Osborn has agreed to assume control of the

24
25
26
27
28
Order Appointing Substitute Custodian - 2

HILLIS CLARK MARTIN & PETERSON P.S.
999 Third Avenue, Suite 4600
Seattle, WA 98104
Tel: (206) 623-1745

1 M/V LUCKY BUCK and the M/V SPEEDWELL after they are arrested by the United States
2 Marshal. Mr. Osborn will moor the vessels at Lake Union Drydock for their safekeeping
3 while they are in his custody.

4 4. The daily fees Mr. Osborn will charge are \$50 and \$65 for the M/V LUCKY
5 BUCK and \$45 for the M/V SPEEDWELL. The Simonsons will directly satisfy all fees of
6 Mr. Osborn and all moorage fees to Lake Union Drydock in the amount of \$1,745 per month
7 and any fee charged by Lake Union Drydock for the proportionate consumption of electricity.

8 5. The fees and expenses Mr. Osborn will charge and the fees for moorage are
9 less than the cost of leaving the property in the custody of the United States Marshal.

10 6. Mr. Osborn has no interest in the outcome of this action.

11 7. The vessels will not be moved and no person except Mr. Osborn and his
12 business associate Paul LaRussa will be allowed to enter on the vessels except as necessary to
13 transfer the vessels to the facilities where Mr. Osborn will store the vessels for their
14 safekeeping and except as necessary to adequately safekeep and protect the property, except
15 as may be expressly ordered by the Court.

16 8. The Simonsons have obtained the insurance coverage required by LAR 135.

17 9. The Simonsons agree to release the United States and the United States
18 Marshal from any and all liability and responsibility arising out of the care and custody of the
19 vessels, from the time the Marshal transfers possession of the vessels to Mr. Osborn until the
20 vessels are released or sold, and agrees to hold harmless and indemnify the United States and
21 the United States Marshal from any and all claims whatsoever arising out of the substitute
22 custodian's possession and safekeeping.

1 10. Mr. Osborn accepts appointment as substitute custodian and possession of the
2 M/V LUCKY BUCK and M/V SPEEDWELL and will keep the vessels for the duration of his
3 appointment as the substitute custodian.
4

5 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that
6

7 1. Jeff Osborn is hereby appointed as the Substitute Custodian of the
8 M/V LUCKY BUCK and M/V SPEEDWELL and is authorized to retain the vessels in his
9 custody for possession and safekeeping for compensation in the amount of between \$50 and
10 \$65 for the M/V LUCKY BUCK and \$45 for the M/V SPEEDWELL, in addition to all
11 expenses, an hourly fee of \$65 for the arrest, inventory, securing the vessels, and required
12 vessel repairs or cleanup, and an annual fee of \$500 per vessel. There shall not be any
13 subsequent increase in the cost of the custodianship or movement of the property or changes
14 in the arrangements except upon further Order of this Court.
15

16 2. The United States Marshal for the Western District of Washington, be and is
17 hereby authorized and directed to surrender possession of the vessels the M/V LUCKY
18 BUCK, Official Number 567411, and the M/V SPEEDWELL, Official Number 594754, and
19 their respective engines, machinery, tools, fishing nets and other fishing gear, fish processing
20 equipment, boats, anchors, chains, tackle, fittings, navigation equipment, and all other
21 equipment and appurtenances appertaining or belonging to such vessels, whether now owned
22 or hereafter acquired, and whether on board or not; all present and future accessions to such
23 vessels, equipment and appurtenances, and all other additions, improvements, and
24 replacements hereafter made in or to such vessel, equipment and appurtenances to the vessels
25 to Jeff Osborn, and that upon such surrender, the United States Marshal shall be discharged
26
27
28

1 from his duties and responsibilities for the safekeeping of the M/V LUCKY BUCK and
2 M/V SPEEDWELL.

3 3. The United States Marshal shall incur no further costs or charges arising out of
4 the arrest and custody of the M/V LUCKY BUCK and M/V SPEEDWELL without further
5 Order of this Court.

6 4. The Simonsons will directly pay compensation for Mr. Osborn, including
7 safekeeping, shifting or movement or other expenses incident to the custody of the
8 M/V LUCKY BUCK and M/V SPEEDWELL during the pendency of this litigation, with the
9 exception of moorage, directly to Mr. Osborn. All expenses for safekeeping of the
10 M/V LUCKY BUCK and M/V SPEEDWELL while in the custody of the Substitute
11 Custodian shall be deemed administrative expenses upon motion of the Simonsons after the
12 release or judicial sale of M/V LUCKY BUCK and M/V SPEEDWELL and will be taxable
13 costs under LAR 135

14 //

15 //

16 //

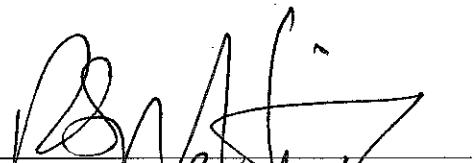
17 //

18 //

1 5. The Simonsons' counsel is directed to serve a copy of this Order on William
2 Orr, who is the registered agent of Signature Seafoods, which in turn is the owner of the
3 M/V LUCKY BUCK and M/V SPEEDWELL, and is relieved from any obligation to serve a
4 copy on the master of the vessels.
5

6 DATED this 16 day of November, 2017.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


HONORABLE R. Martinez
United States District Court Judge

Presented by:

HILLIS CLARK MARTIN & PETERSON P.S.

By s/Bradley R. Duncan
Bradley R. Duncan, WSBA #36436
Andrew G. Murphy, WSBA #46664
999 Third Avenue, Suite 4600
Seattle, WA 98104
Tel: (206) 623-1745
Fax: (206) 623-7789
E-mail: bradley.duncan@hcmp.com
andy.murphy@hcmp.com

Attorneys for Plaintiffs Stanley G. Simonson and
Rebecca I. Simonson

ND: 12581.020 4825-7897-6337v1